

TO: Anthony J. Scirica, Chair
Committee on Rules of Practice and Procedure

FROM: A. Thomas Small, Chair
Advisory Committee on Bankruptcy Rules

DATE: December 14, 2001

RE: Report of the Advisory Committee on Bankruptcy Rules

I. INTRODUCTION

The Advisory Committee on Bankruptcy Rules was scheduled to meet on September 13-14, 2001, in Plymouth, Massachusetts. The meeting was canceled due to the tragic events of September 11.

Although the Advisory Committee did not meet in September, the Committee did take action to approve a preliminary draft of amendments to Bankruptcy Rule 1005 and Official Forms 1, 3, 5, 6, 7, 8, 9, 10, 16A, 16C and 19. The action was taken in response to the approval of a Privacy and Public Access to Electronic Case Files policy by Judicial Conference of the United States on the recommendation of the Committee on Court Administration and Case Management in September 2001.

II. ACTION ITEMS

Preliminary Draft of Proposed Amendments to Bankruptcy Rule 1005, and Official Forms 1, 3, 5, 6, 7, 8, 9, 10, 16A, 16C and 19.

Synopsis of Proposed Amendments:

Rule 1005 is amended to implement the Judicial Conference policy to limit the disclosure of social security numbers and similar identifiers by requiring only the last four digits of the social security numbers in the title of the case.

Official Forms 1, 3, 5, 6, 7, 8, 9, 10, 16A, 16C and 19 are amended to limit the disclosure

of social security numbers and similar identifiers by requiring only the last four digits of the social security numbers and the last four digits of any account numbers that debtors may have with creditors. The Forms also are amended to include a reference to 11 U.S.C. § 110 which requires the full disclosure of the social security number of bankruptcy petition preparers.

Text of proposed amendments to Rule 1005 and Official Forms 1, 3, 5, 6, 7, 8, 9, 10, 16A, 16C, and 19 are attached.

III. INFORMATION ITEMS

A. Publication of Proposed Amendments

At its June 2001 meeting, the Standing Committee authorized the publication of a preliminary draft of proposed amendments to the Bankruptcy Rules and Official Forms. There is a proposed new rule, and proposed amendments to four rules and three forms. The deadline for submitting written comments on the proposals is February 15, 2002. A public hearing is scheduled for January 4, 2002, in Washington, D.C. To date, no requests for personal appearances has been received. Any comments that are received will be considered by the Advisory Committee at its March 2002 meeting. The Advisory Committee expects to present these amendments to the Standing Committee for approval by the Standing Committee at its June 2002 meeting.

B. Proposed Bankruptcy Legislation

Both the House and Senate passed versions of bankruptcy reform legislation. A conference committee has been appointed to reconcile the two bills, and that committee has undertaken the task to a limited degree. The events of September 11, 2001, understandably have caused an adjustment in the legislative agenda, and it does not appear that comprehensive bankruptcy reform will be enacted in the immediate future. Nonetheless, the conference committee is continuing its work, and the Advisory Committee is monitoring these developments to remain prepared to propose any necessary rules and forms amendments and additions. It is also possible that selected provisions of the reform legislation could be enacted on a piecemeal basis, including enactments such as the proposed chapter on cross border insolvency proceedings, that would require rules and forms amendments or additions.

Attachments: Proposed Amendment to Bankruptcy Rule 1005
Proposed Amendments to Official Forms